



Report of:	Meeting	Date
The Monitoring Officer, Liesl Hadgraft	Standards Committee	14 March 2019

Wyre Code of Conduct Review

1. Purpose of report

- 1.1** To enable proposed changes to the Councillors Code of Conduct to be considered.

2. Outcomes

- 2.1** More robust ethical standards.

3. Recommendations

- 3.1** That the amendments to the Code of Conduct proposed by the Working Group, set out in Appendix 1, be endorsed.
- 3.2** That the Council be recommended to approve the proposed amendments at its meeting on 14 March 2019 and agree that the revised Code of Conduct be adopted with effect from 2 May 2019 and included in 5.01 of the Constitution, in place of the current version.

4. Background

- 4.1** At its last meeting on 15 November the Standards Committee agreed to set up a Working Group to review Wyre's Code of Conduct (minute 13). The issues considered by the Working Group and the conclusions it has reached are set out below.

5. Key issues and proposals

- 5.1** The Working Group, comprising Councillors Ingham (Chairman), Ellison (Vice-Chairman), Lady Atkins, Ellison, Moon, Raynor, Shewan and Matthew Vincent has met on two occasions. It was advised by Liesl Hadgraft (Head of Business Support and Monitoring Officer) Mary Grimshaw (Senior Solicitor and Deputy Monitoring Officer) and Roy

Saunders (Democratic Services and Scrutiny Manager). The Group was provided with a comprehensive set of background information, including:

- all the Council's current codes, protocols and procedures;
- relevant legislation and government guidance;
- information about codes of conduct from other councils.

- 5.2** At the first meeting Liesl Hadgraft explained the rationale for setting up the Group. She said that the Localism Act 2011 had made significant changes to the standards regime for local authorities. The Standards Board for England and the previous national code of conduct had been abolished, with control given back to local authorities but, the sanctions which could be imposed for breaches of the code had been significantly diluted. When the provisions in the Localism Act were implemented in 2012, Wyre Council had chosen to adopt a shortened version of the code, requiring councillors to meet the minimum requirements specified in the Act, i.e. to have regard to the general principles set out - selflessness, integrity, objectivity, accountability, openness, honesty and leadership - and to comply with the statutory requirements for registering and declaring interests.
- 5.3** As it had been six years since Wyre's current code had been introduced and, given some of the recent cases that had come to her attention as Monitoring Officer, it was timely for a review to be undertaken. Doing so now would enable a revised code to be agreed by the Council on 4 April 2019, prior to the elections in May 2019 and for guidance to be included in the induction programme for councillors.
- 5.3** Mrs Hadgraft pointed out that a number of additional behaviours which had been included in the old pre-Localism Act national code and which had subsequently been replicated by many other councils in their own codes, but which had not, up to now, been included in Wyre's Code, had been listed in a report submitted to the Standards Committee on 15 November 2018. The Group therefore started by considering which of those behaviours it might want to recommend be incorporated in a revised Wyre Code and to also identify any other aspects of the code it wanted to review.
- 5.4** Following a discussion, the Working Party agreed:
1. That, despite the Group's concern that the main problem with the current Code was the lack of effective sanctions to deter or punish breaches, to note that it was not possible for the Group to recommend or the Council to introduce additional sanctions, until further legislation was passed.
 2. That the Group's review should focus on possible revisions to Wyre's Code of Conduct, including:
 - (a) The re-introduction of the following commitments included in the pre- Localism Act Code:

- *to uphold the law;*
- *to have respect for the law;*
- *to have regard, when reaching decisions to the advice of the Monitoring Officer or Chief Financial Officer;*
- *to not to bully any person;*
- *to not intimidate or attempt to intimidate any person who is likely to be a complainant, or witness etc.;*
- *to not disclose confidential information except in certain specified situations (e.g. with consent or if required by law to do so);*
- *to not bring their office in to disrepute.*

(b) Notwithstanding the obvious need for the specific circumstances of each case to be considered on its merits, the provision of additional guidance to Councillors, either by including a glossary defining key terms used in the Code (such as “bullying” or “intimidation”) and/or by giving examples of the type of behaviours, which were likely to be judged to be a breach of the Code.

(c) Reference in the Code of Conduct and related documents to pecuniary (or financial) and non-pecuniary (or non-financial) interests, rather than “pecuniary” and “significant other” interests, as currently referred to.

(d) The provision of clearer guidance to councillors on the declaration of interests at meetings and also on the requirement to register their interests within 28 days of their election and following any changes.

3. That the officers be requested to submit draft amendments to Wyre’s Code of Conduct, covering all the points listed in paragraphs (1) and (2) above, for consideration at the next meeting of the Group.

4. Not, at this stage, to consider any major changes to the process for dealing with alleged breaches of the Code, which it was noted had been updated more recently than the Code.

5.5 At its second meeting on 7 February 2019 the Working Group considered possible amendments to Wyre’s Code of Conduct, submitted by the Monitoring Officer, which reflected the issues which had been identified and the points which had been raised by the Working Group at its previous meeting.

5.6 Mrs Hadgraft explained that, as directed by the Working Group, the amendments included a number of additional behavioural criteria which were not used in Wyre’s current Code, as well as clarifying and simplifying a number of points. In carrying out this task, a number of

codes of conduct from other Councils and best practice guidance published Bevan Britten Solicitors had been looked at.

5.7 The rationale for each of the proposed changes was as follows:

Part 1: General Provisions and Obligations

Para 1.2

When a complaint about a councillor was received, one of the first tests that had to be applied was whether the member concerned was acting in his/her capacity as a member. This was often a grey area, with a difference in what the member believed and what the member of the public perceived. This paragraph had therefore been expanded to provide more clarity.

Para's 1.2 (a) to (e)

These were new behavioural elements that had not been included when the current Code had been agreed.

Paragraphs (a) and (b) dealt with "respect" in general and also, more specifically, with regards to the law.

Paragraph (c) dealt with advice given to members by officers of the Council. This was important as it would act as a reminder that the advice given by officers, particularly when they were acting in accordance with their statutory duties, should be seriously considered and that, if their advice was not followed, the reasons for not doing so needed to be clear. At the last meeting of the Group there had been some concern as to how "due regard" could be demonstrated. If due regard had been given by a member they would be able to provide a clear rationale as to why the officer advice had not been taken, and they would be able to provide an understanding of the consequences of coming to their decision.

Paragraph (d) dealt with bullying. Rather than doing so in a separate section, it was proposed that intimidation also be included here, as it was felt that these two issues were closely linked. There had been some detailed discussion at the last meeting about what amounted to bullying and it had been suggested that a definition should be included in the Code. An explanation of bullying/intimidation had therefore been included at the end of Part 1 of the amended Code. This has been compiled having considered a dictionary definition and examples used in other council's codes. For clarity, also included in the last 3 lines, was a statement of what bullying was not - relating specifically to the political arena. She said it was important that this was highlighted to avoid numerous spurious complaints.

Paragraph (o) had been amended to provide further clarity on public speaking and the need to make sure that it was made clear that views shared were those of the individual member and not the council (unless

of course that was the case) and also covered a situation where conduct could bring the council into disrepute.

Part 2 – Registering and Declaring Interests

Mrs Hadgraft explained that there wasn't anything that needed to be added to Part 2 of the Code and no changes to the actual content were proposed. However, on reflection, it was felt that the wording in this section could be presented in a much clearer and simpler way to assist members to understand what must be included on the register and the requirements for declaring interests. The first section dealt with the need to register interests and what type of things should be included. These were listed in Appendix A (pecuniary, which are statutory) and Appendix B (non-pecuniary) and had not changed. The next section addressed how a registered Disclosable Pecuniary Interest should be declared at a meeting (where appropriate) and what should happen at the meeting in relation to discussion of the topic and voting. The final section explained the process for declaring Non Pecuniary Interests (either those listed in Appendix B or any other significant nonpecuniary interests).

- 5.8** The Working Group discussed each of the amendments proposed and agreed that the proposed amendments be approved in their entirety, subject only to two minor amendments, which have been included in the recommended changes to the Code of Conduct set out in Appendix 1 of this report.
- 5.9** The Working Group was also informed by the Monitoring Officer at its second meeting, that the long awaited Parliamentary Committee on Standards in Public Life Report on Ethical Standards in Local Government had been published on 30 January 2019. Mrs Hadgraft reminded the Working Group that the Standards Committee had responded on behalf of the Council in March 2018 to a consultation exercise conducted by the Parliamentary Committee as part of its review. She said that an initial look at the report indicated that a lot of the concerns raised by Wyre and many other councils, particularly the problem of the current standards process having no teeth, had been heard and the recommendations made would hopefully go some way to rectifying the issues raised. However, the reality was that in order for the recommendations to be brought into fruition, they would have to be approved by parliament and some would require new regulations or new primary legislation to be passed. It was, therefore, likely to be some time before the Council would be given the opportunity to implement any of the recommendations. The good news was that the work carried out by this Working Group would make Wyre's Code of Conduct more robust and align it more closely to the best practice identified in the report. It would also make it easier to introduce further changes in line with the findings and recommendations in the Report when the necessary legislation had been passed. The Working Party noted the position and agreed to recommend that the Standards Committee proceed with the amendments to the current Wyre Code now being proposed. (The

Executive Summary of the Committee on Standards in Public Life Report is being submitted to this meeting of the Standards Committee under agenda item 5).

Financial and legal implications	
Finance	None arising directly from this report.
Legal	<p>The Council is required by Section 27 of the Localism Act 2011 to promote and maintain high standards of conduct by members of the authority and to publish a code of conduct. There is no longer an 'official' model code, so the Council is responsible for agreeing its own code. The Council must also have procedures in place to deal with any breaches of the Code.</p> <p>Parish and town councils in the Borough are required either to agree their own code or to adopt Wyre's. However, Wyre is responsible for dealing with any alleged breaches of the code by parish and town councillors.</p>

Other risks/implications: checklist

If there are significant implications arising from this report on any issues marked with a ✓ below, the report author will have consulted with the appropriate specialist officers on those implications and addressed them in the body of the report. There are no significant implications arising directly from this report, for those issues marked with a x.

risks/implications	✓ / x
community safety	
equality and diversity	
sustainability	
health and safety	

risks/implications	✓ / x
asset management	
climate change	
ICT	
data protection	

Processing Personal Data

In addition to considering data protection along with the other risks/ implications, the report author will need to decide if a 'privacy impact assessment (PIA)' is also required. If the decision(s) recommended in this report will result in the collection and processing of personal data for the first time (i.e. purchase of a new system, a new working arrangement with a third party) a PIA will need to have been completed and signed off by Data Protection Officer before the decision is taken in compliance with the Data Protection Act 2018.

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List of background papers:		
name of document	date	where available for inspection
None	-	-

List of appendices

Appendix 1: Proposed amendments to Wyre Council's Code of Conduct